

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anna Steel	Team: Team # 8	CCRB Case #: 200805538	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/30/2007 10:15 AM	Location of Incident: § 87(2)(b)	Precinct: 44	18 Mo. SOL 11/30/2008	EO SOL 11/30/2008	
Date/Time CV Reported Thu, 04/17/2008 2:30 PM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 04/17/2008 2:30 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Curtis Chambers	03427	939299	044 PCT
2. POM Vicenti Guzman	26308	941030	044 PCT
3. LT Brian Mullen	00000	906885	44 PCT
4. Officers			044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Peter Sotiriou	02120	924515	044 PCT
2. POF Maria Rodriguez	10370	900323	044 PCT
3. POM Eric Acevedo	06741	915215	044 PCT
4. POM Patrick Fallon	10527	888687	044 PCT
5. POM Chris Acker	26388	889474	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Brian Mullen	Abuse: At § 87(2)(b) Lt. Brian Mullen stopped § 87(2)(b)	§ 87(2)(b)
B.LT Brian Mullen	Abuse: At § 87(2)(b) Lt. Brian Mullen searched § 87(2)(b)	§ 87(2)(b)
C.POM Curtis Chambers	Abuse: At § 87(2)(b) PO Curtis Chambers searched § 87(2)(b)	§ 87(2)(b)
D.POM Curtis Chambers	Abuse: At § 87(2)(b) PO Curtis Chambers refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
E.LT Brian Mullen	Abuse: At § 87(2)(b) Lt. Brian Mullen refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
F.POM Vicenti Guzman	Abuse: At § 87(2)(b) PO Vicenti Guzman refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
G. Officers	Force: At § 87(2)(b) officers used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.POM Vicenti Guzman	Force: At the 44th Precinct, PO Vicenti Guzman used physical force against § 87(2)(b)	
I.POM Vicenti Guzman	Off. Language: At the 44th Precinct, PO Vicenti Guzman made remarks to § 87(2)(b) based upon race.	
J.POM Vicenti Guzman	Abuse: At the 44th Precinct, PO Vicenti Guzman did not obtain medical treatment for § 87(2)(b)	
K.POM Curtis Chambers	Abuse: At the 44th Precinct, PO Curtis Chambers did not obtain medical treatment for § 87(2)(b)	

## Synopsis

On May 30, 2007, at approximately 9:45 AM, § 87(2)(b) exited his residence, located at § 87(2)(b) in the Bronx. For about twenty minutes, § 87(2)(b) sat on a ledge in front of this location. Approximately eight to twelve officers in uniform arrived in marked and unmarked vehicles. Eight of these officers were identified through investigation as then Lt. Brian Mullen, PO Curtis Chambers, PO Vicenti Guzman, Sgt. Peter Sotiriou, PO Patrick Fallon, PO Chris Acker, PO Eric Acevedo and PO Maria Rodriguez from the 44<sup>th</sup> Precinct. PO Chambers stood behind § 87(2)(b) and allegedly held the back of his shirt collar while Lt. Mullen stood in front of § 87(2)(b) (**Allegation A**). Lt. Mullen and PO Chambers then allegedly searched § 87(2)(b) by respectively feeling inside the front and back pockets of his shorts (**Allegation B** and **Allegation C**). § 87(2)(b) asked what the officers were doing and Lt. Mullen explained that they were looking for a firearm. After concluding their search, the officers began to walk away. § 87(2)(b) followed the officers down the steps. He asked PO Chambers, Lt. Mullen and PO Guzman for their names and shield numbers. These officers allegedly never provided this information to § 87(2)(b) (**Allegation D, E and F**). Instead, they approached him and a number of officers used physical force against § 87(2)(b) to bring him to the ground and secure him in handcuffs. He was then picked up by his hair and shorts and thrown into a police vehicle (**Allegation G**).

§ 87(2)(b) was transported to the 44<sup>th</sup> Precinct. § 87(2)(b) alleged that PO Guzman used physical force to escort him into to the precinct and place him in the holding cell, where he kicked him once in the side (**Allegation H**) and called him a ‘Nigger’ (**Allegation I**). § 87(2)(b) informed PO Guzman and PO Chambers, who was standing nearby, that he needed his medication, was disabled, and felt as though he was going to vomit. PO Guzman and PO Chambers did not provide medical treatment for § 87(2)(b) at this time (**Allegation J** and **Allegation K**). Sometime later, § 87(2)(b) told PO Guzman and PO Chambers that he was having chest pain and asked for an ambulance. § 87(2)(b) was transported to § 87(2)(b) in an ambulance. § 87(2)(b) was treated for chest pain. § 87(2)(b) was later returned to the 44<sup>th</sup> Precinct and then to Bronx Central Booking, where he was charged with § 87(2)(b).

§ 87(2)(g)

### Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a black male who is 6'1" tall, weighs 170 pounds and has brown hair and brown eyes. § 87(2)(b) provided statements to medical personnel on § 87(2)(b) (encl. 4). § 87(2)(b) filed a notice of claim on § 87(2)(b) (encl. 5a – 5c) and made statements during a 50H hearing on § 87(2)(b) (encl. 6a – 6sss). § 87(2)(b) filed a complaint with the CCRB on April 17, 2008 (encl. 7a – 7b). He was interviewed at the CCRB on May 29, 2008 (encl. 8a – 8i). § 87(2)(g)

### *CCRB Statement*

On May 30, 2007, at approximately 9:45 AM, § 87(2)(b) exited his residence, located at § 87(2)(b) in the Bronx. § 87(2)(b) sat on a ledge affixed to the left side of the steps. There is a stair railing that runs along this side of the steps as well. § 87(2)(b) sat on the ledge for fifteen to twenty minutes. He did not see or speak to anyone during this time.

§ 87(2)(b) was wearing brown flip-flops, grey jean shorts and a grey tee-shirt. His hair was in braids and extended past his neck. § 87(2)(b) had a cellular phone which was approximately two and a half inches in length and one inch in width. His cellular phone was in the front right pocket of his shorts. § 87(2)(b) had his keys in the front left pocket of his shorts. § 87(2)(b) is legally blind in his right eye and has very poor vision in his left eye. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) On the day of the incident, § 87(2)(b) was not wearing contacts or glasses. § 87(2)(b) was holding a cane, which he needs in order to walk. The medical condition which necessitates this cane is called ‘cardiovascular arthritis,’ which he has in both knees.

A resident of § 87(2)(b)'s building, § 87(2)(b) exited the building and sat to the right of § 87(2)(b) on the ledge. § 87(2)(b) pointed to a marked police van which was slowly driving up § 87(2)(b) at about five to ten miles per hour. § 87(2)(b) did not pay attention to the police vehicle and did not know how many occupants were in this vehicle. He continued talking with § 87(2)(b) for about ten minutes.

Three marked police vehicles and two unmarked police vehicles turned off of § 87(2)(b) and stopped in front of § 87(2)(b). Approximately eight to twelve officers in uniform exited these vehicles and walked towards § 87(2)(b)'s building. Eight of these officers were identified through investigation as then Lt. Brian Mullen, PO Curtis Chambers, PO Vicente Guzman, Sgt. Peter Sotiriou, PO Patrick Fallon, PO Chris Acker, Eric Acevedo and PO Maria Rodriguez from the 44<sup>th</sup> Precinct.

PO Chambers stood behind § 87(2)(b) and held the back collar of his shirt while Lt. Mullen stood in front of § 87(2)(b) such that he was not free to leave (**Allegation A**). § 87(2)(b) observed from PO Chambers’ shield that his name was “Chambers” and referred to him by name throughout his interview at the CCRB (encl. 8a – 8i). § 87(2)(b) described Lt. Mullen as a white male who was about 5’10” tall, had a large belly, light brown hair and was wearing a white uniformed shirt. § 87(2)(b) was informed by his criminal attorney that this officer’s name was “Lt. Chris Mullen.” Lt. Mullen removed § 87(2)(b)'s cane from his hand and placed it beside him. Lt. Mullen felt inside the right front pocket of his shorts (**Allegation B**). Lt. Mullen did not pat the outside of this pocket before feeling inside of it.

Meanwhile, PO Chambers felt inside § 87(2)(b)'s two back pockets (**Allegation C**). PO Chambers also did not pat the outside of § 87(2)(b)'s pockets or clothing before feeling inside his back pockets. § 87(2)(b) asked the officers what they were doing and what he had done wrong. Throughout the incident, § 87(2)(b)'s tone of voice was calm. As PO Chambers and Lt. Mullen searched § 87(2)(b), the remaining officers stood in front of § 87(2)(b). PO Guzman was standing on the step closest to the sidewalk. § 87(2)(b) described him as a Hispanic male who was about 6’3” tall, muscular and had short black hair. § 87(2)(b) observed from his shield that his name was “Guzman” at this time and referred to him by name during his interview with the CCRB (encl. 8a – 8i).

§ 87(2)(b) asked the officers what they were looking for and Lt. Mullen replied that they were looking for a firearm. Lt. Mullen did not give § 87(2)(b) any additional information regarding the firearm. § 87(2)(b)'s criminal attorney later told him that the officers were looking for a male wearing blue jeans, a white shirt and a red shirt. § 87(2)(b) told Lt. Mullen that he was not involved in anything and that this was “bull crap.” After conducting their search, the officers began to walk away towards their police vehicles.

§ 87(2)(b) stood up and took two steps in the direction the officers were walking. PO Chambers, Lt. Mullen and PO Guzman were the closest to § 87(2)(b). § 87(2)(b) asked for their names and shield numbers. § 87(2)(b) was standing at the bottom of the steps on the sidewalk. PO Chambers, Lt. Mullen, and PO Guzman turned around and faced § 87(2)(b). They never provided their names or shield numbers to § 87(2)(b) (**Allegations D, E, and F**). PO Chambers, Lt. Mullen and PO Guzman were standing with Sgt. Sotiriou. § 87(2)(b) described Sgt. Sotiriou as a white male who appeared Irish, had light blonde hair and a shield bearing the name “Senturi” or something similar.

The officers stepped towards § 87(2)(b). PO Chambers first pushed § 87(2)(b) once on his upper left arm with either one or both hands; PO Guzman stepped towards him and lightly poked him on the stomach above his belly button once with the baton while instructing him to step back; PO Chambers then grasped § 87(2)(b)'s collar at the nape of his neck and drew one of his arms behind his back; at least three officers then wrestled § 87(2)(b) to the ground (**Allegation G**). § 87(2)(b) could not describe how they wrestled him to the ground, where the officers grasped him on his body or whether he was pulled or pushed in a particular direction. § 87(2)(b) could not describe where the officers were standing in relation to his body when they brought him to the ground.

§ 87(2)(b) fell on his knees and then lay on this stomach on the sidewalk in front of his building. He was handcuffed and instructed to stand up. § 87(2)(b) complained that his arms hurt and repeatedly told the officers that he was disabled. While being handcuffed, § 87(2)(b) resisted by pulling his arms and body away from the officers. In his notice of claim (encl. 5a – 5c), § 87(2)(b) reported that an officer broke his cane following the initial struggle. He made no mention of this allegation at the time of his interview with the CCRB.

The officers again instructed him to stand. § 87(2)(b) stated that he could not walk or move without the assistance of his cane. PO Guzman and an additional officer § 87(2)(b) could not describe picked him up and carried him to a marked police vehicle by holding onto his belt and hair (**Within Allegation G**). § 87(2)(b) stated that, in the process of dragging him to the police vehicle, his knees and top of his feet sustained lacerations. When they reached the vehicle, PO Guzman and PO Chambers threw him inside the vehicle, where he lay on his torso, and then pushed him the remainder of the way in (**Within Allegation G**).

§ 87(2)(b) was transported to the 44<sup>th</sup> Precinct by PO Guzman. When they arrived at the precinct, § 87(2)(b) got out of the vehicle. PO Guzman told him to walk. § 87(2)(b) said that he could not walk without the assistance of his cane. PO Guzman put his arms under § 87(2)(b)'s armpits, wrapped his arms around his upper chest and dragged § 87(2)(b) inside the precinct in this fashion by walking backwards (**Allegation H**). As a result, the bottom of § 87(2)(b)'s feet were lacerated, though these lacerations were not bleeding. PO Guzman dragged § 87(2)(b) into the processing area by the holding cell and let go of § 87(2)(b)'s armpits. § 87(2)(b) fell onto the ground into a seating position (**Within Allegation H**).

§ 87(2)(b) told PO Guzman that his handcuffs were too tight and PO Guzman removed them. § 87(2)(b)'s wrists were bruised as a result being in the handcuffs. PO Guzman told § 87(2)(b) to stand up and walk into the holding cell. § 87(2)(b) again said that he could not walk without his cane. PO Guzman put his hands on § 87(2)(b)'s waist, lifted him into the air and walked § 87(2)(b) into the holding cell while holding his waist. He let go of § 87(2)(b)'s waist and he fell to the floor in a seated position. PO Guzman then kicked him once on his left side above his hip (**Within Allegation H**) while saying, “Get up, Nigger” (**Allegation I**). The kick to his side did not result in any bruising. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) stated that he needed his medication, was disabled, and felt as though he was going to vomit. PO Guzman and PO Chambers, who were standing nearby, told § 87(2)(b) that they knew what kind of medication he needed. § 87(2)(b) understood this statement to be an indication that he was a drug user. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(b) explained at the time of his interview that he takes Vicodin for his pain, Ambien and Trazadone to help him sleep, Lexapro for depression and Novaz for high blood pressure. § 87(2)(b) began to experience chest pain. He did not report this pain to the officers at this time. § 87(2)(b) told PO Chambers and PO Guzman that he was going to remember their names and file a complaint against them. PO Chambers and PO Guzman continued to ask for § 87(2)(b)'s name. § 87(2)(b) would not give them his name. PO Chambers and PO Guzman told him that he would be processed under 'John Doe.' PO Chambers and PO Guzman continued to check on § 87(2)(b) every fifteen minutes.

§ 87(2)(b)'s pain continued to increase. § 87(2)(b) lost consciousness. § 87(2)(b) did not know how long he had been in the holding cell at the point at which he lost consciousness. He explained that this typically happens when he does not take his medication. These periods of unconsciousness only last for a few seconds. When § 87(2)(b) regained consciousness, he called to PO Chambers and PO Guzman. He said that he was having chest pain and asked for an ambulance. PO Chambers and PO Guzman called for an ambulance, which arrived shortly thereafter.

§ 87(2)(b) was transported to § 87(2)(b). He was treated for a fever and for the lacerations on his knees and feet. § 87(2)(b) explained that he still needs surgery to repair the damaged skin of his feet. He explained that the uppermost layer of the skin on his feet was 'turned inside out.' Photographs were taken of § 87(2)(b)'s feet at the time of his interview with the CCRB. These photographs showed no evidence of any injury (encl. 8f – 8h).

At the time of his interview, § 87(2)(b) was wearing a splint on his right wrist. He was given this splint at § 87(2)(b) due to the bruising on this wrist. His wrist was not fractured or broken. However, § 87(2)(b)'s medical records from § 87(2)(b) (encl. 23a – 23e) did not reference any injuries to this part of § 87(2)(b)'s body and there was no indication that he was given a splint. At the time of his notice of claim (encl. 5a – 5c), § 87(2)(b) also reported injuries to both shoulders and his left wrist and left hand. He made no mention of these injuries at the time of his interview at the CCRB. According to medical records from § 87(2)(b) (encl. 23a – 23e), § 87(2)(b)'s only complaint was chest pain and he made no statements to medical personnel at the hospital regarding injuries to his feet, knees or wrists.

After being treated at § 87(2)(b), § 87(2)(b) was transported back to the 44<sup>th</sup> Precinct and later transported to Bronx Central Booking, where he was charged with § 87(2)(b). In his notice of claim (encl. 5a – 5c), § 87(2)(b) stated that he fainted three times and was vomiting blood while at Central Booking due to his medication being withheld. He made no mention of this at the time of his interview with the CCRB.

### **Results of Investigation**

#### **Additional Witness Statements:**

§ 87(2)(b)

§ 87(2)(b) is § 87(2)(b) years old. He is a black male. § 87(2)(b) provided a brief telephone statement on June 9, 2008 (encl. 9).

On May 30, 2007, sometime in the morning, § 87(2)(b) was sitting outside with § 87(2)(b) near the stairs on a raised platform. Four police vehicles parked near the corner of § 87(2)(b). Two were marked police vehicles, one was a dark, unmarked vehicle and the fourth was a marked police van. Between six to eight officers exited these vehicles. PO 1, a white male officer in

uniform, exited the unmarked vehicle. PO 2 was a black male in uniform. PO 3 was a Hispanic male in uniform. There were other white male officers in uniform as well. § 87(2)(b) stressed that he could not describe any of the officers in further detail.

The officers approached § 87(2)(b). An officer reached forward and patted him on the pockets of his shorts. § 87(2)(b) could not recall which officer frisked § 87(2)(b). § 87(2)(b) asked what the officer was doing and brushed his hand away. A white or Hispanic officer grasped the back of § 87(2)(b)'s shirt collar. Another officer whom § 87(2)(b) could not describe thrust a short stick into § 87(2)(b)'s stomach. § 87(2)(b) was attempting to struggle with the officers, though § 87(2)(b) could not describe how § 87(2)(b) was struggling. Another officer § 87(2)(b) could not describe took § 87(2)(b)'s cane and broke it in half. § 87(2)(b) could not describe how the officer broke his cane. § 87(2)(b) was somehow brought to the ground.

A white male officer approached § 87(2)(b) and told him to take a walk. § 87(2)(b) asked the officer if he wanted to see his ID and he replied negatively. § 87(2)(b) got up and walked towards his building. § 87(2)(b) continued to state that he was instructed to leave after § 87(2)(b) was brought to the ground, but also continued to state that he did not see how § 87(2)(b) was brought to the ground because he was walking towards his building. § 87(2)(b) could not clarify the discrepancy between these two statements.

§ 87(2)(b) walked into his building and watched the rest of the incident from behind the front door, which is entirely comprised of glass. § 87(2)(b) knew of no other individuals who witnessed the incident. § 87(2)(b) saw the officers scuffling with § 87(2)(b) in front of the building. § 87(2)(b) could not describe what he meant by 'scuffling.' § 87(2)(b) said that § 87(2)(b) was resisting, but could not describe his physical actions. § 87(2)(b) said that § 87(2)(b) never grasped a railing. Two officers escorted § 87(2)(b) towards a police vehicle by partially dragging him and holding each of his arms. § 87(2)(b)'s feet were dragging on the ground. The officers never lifted § 87(2)(b) into the air. § 87(2)(b) did not witness the officers place § 87(2)(b) into the police vehicle. The incident lasted about a minute.

§ 87(2)(b) stated that he did not wish to provide a formal, in-person statement to the CCRB.

### **An Individual**

SPRINT Records (encl. 24a – 24b) show that an individual called 911 on the day of the incident to report that an individual wearing blue jeans, a white shoes and a blue or red shirt was sitting in front of § 87(2)(b) and was carrying a firearm. The investigator called this number on July 8, 2008. An individual who wished to remain anonymous explained that the number is listed to a communal telephone used by all residents at § 87(2)(b). The anonymous individual did not recall the incident in question and was not familiar with the name § 87(2)(b). As the SPRINT did not contain a name for the person who called 911, no further steps could be taken to identify this individual.

§ 87(2)(b)

§ 87(2)(b) identified § 87(2)(b) as a witness in this case and stated that he was a security guard at § 87(2)(b). § 87(2)(b) possessed no additional contact information for § 87(2)(b). A letter was sent to § 87(2)(b) on June 2, 2008. Between this date and August 4, 2008, a total of eleven calls were placed to § 87(2)(b) provided number. § 87(2)(b) failed to contact the investigator with regard to the incident, and the investigation was thus unable to identify § 87(2)(b) through this avenue. A search for § 87(2)(b) via whitepages on August 26, 2008, yielded eight results, none of which listed an address or telephone number within the five boroughs of New York City. A requested Lexis Nexis search also yielded negative results. Absent additional contact information, the investigation was unable to contact § 87(2)(b) regarding the incident.

### **Police Officer Statements:**

## **Lt. Brian Mullen**

Lt. Brian Mullen is § 87(2)(b) years old. He is a white male who is 5'9" tall, weighs 195 pounds and has brown hair and brown eyes. Since this incident, Lt. Mullen has been promoted to Captain and transferred to Transit District 32. At the time of the incident, Lt. Mullen was assigned to the 44<sup>th</sup> Precinct. He has been a member of the service for fourteen years. Lt. Mullen was interviewed at the CCRB on August 20, 2008 (encl. 11a – 11c). On the day of the incident, Lt. Mullen worked from 6:50 AM to 3:35 PM as assigned second platoon commander. He was in uniform and assigned to a marked police vehicle. Lt. Mullen did not have his memobook with him at the time of his interview with the CCRB.

### ***Police Reports***

Lt. Mullen prepared a line of duty injury report for PO Chambers on May 30, 2007 (encl. 10). Lt. Mullen reported that, on this date at § 87(2)(b) PO Chambers and PO Guzman had responded to a radio communication regarding a male with a firearm. A male fitting the description was stopped and questioned. The male became disorderly and began to yell. As the officers walked away, the male bumped PO Chambers. The officers attempted to arrest the male and he resisted. § 87(2)(a)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### ***CCRB Statement***

On May 30, 2007, at approximately 10:30 AM, Lt. Mullen was conducting routine patrol with his partner, PO Chris Acker, within the confines of the 44<sup>th</sup> Precinct in the Bronx. They received a radio communication concerning a male who was reportedly armed with a firearm and sitting in front of § 87(2)(b). The individual was described as a black male wearing blue jeans. Additional details regarding the physical description of the subject were provided at the time of the radio communication, but Lt. Mullen did not recall what these details were at the time of his interview with the CCRB. The radio run was generated by a call placed to 911 from inside § 87(2)(b). The radio communication did not specify where the firearm was or give any further details regarding the reported firearm. Lt. Mullen did not recall where he was specifically when he received the radio run.

Lt. Mullen responded to § 87(2)(b) in less than three minutes and parked in front of the location. Lt. Mullen explained that this location is a shelter. Three steps lead to a patio area from which the front door is then accessible. A male individual, subsequently identified through his arrest as § 87(2)(b) was sitting on the patio. § 87(2)(b) matched the physical description outlined in the radio communication. There was another individual, identified through the investigation as § 87(2)(b) sitting on the patio closer to the front door of § 87(2)(b). He appeared Hispanic and did not match the physical description in the radio run.

Lt. Mullen approached § 87(2)(b). § 87(2)(b) did not make any movements as Lt. Mullen approached him. PO Acker stood behind § 87(2)(b) and Lt. Mullen stood in front of him. § 87(2)(b) remained seated when Lt. Mullen approached. Lt. Mullen asked § 87(2)(b) if he had anything on him. Lt. Mullen did not recall what § 87(2)(b) specifically said in reply. § 87(2)(b) had a cane in his hand. Lt. Mullen removed it from § 87(2)(b)'s hand and placed it beside him so that it could not be used as a weapon. § 87(2)(b) began cursing at the officers and appeared agitated and angry. § 87(2)(b) continued to curse at the officers throughout the encounter.

Lt. Mullen informed § 87(2)(b) that they had received a call regarding a firearm and stated that he needed to frisk him for his safety. Lt. Mullen did not observe anything on § 87(2)(b)'s person which indicated whether he was armed. Because the way in which § 87(2)(b) was seated, Lt. Mullen could not see the rear of his waistband. Aside from the radio communication, nothing else suggested that § 87(2)(b) was armed. Lt. Mullen extended both of his hands towards § 87(2)(b).



§ 87(2)(b) with the intention of frisking his waist area for his safety. Aside from frisking him, Lt. Mullen had no other means through which to ascertain whether § 87(2)(b) had a weapon.

Lt. Mullen had barely reached § 87(2)(b)'s shirt when § 87(2)(b) lunged forward and pushed his hands away. Lt. Mullen did not recall whether § 87(2)(b) used one or both hands. § 87(2)(b) also attempted to stand up, but PO Acker placed his hands on § 87(2)(b)'s shoulder and pushed him back into a seated position. PO Acker may also have attempted to frisk § 87(2)(b) as well. § 87(2)(b) continued cursing at Lt. Mullen, though Lt. Mullen again did not recall what § 87(2)(b) specifically said to him. § 87(2)(b)'s tone of voice was stern and loud. Lt. Mullen again attempted to frisk § 87(2)(b) and § 87(2)(b) pushed his hands away again. Each time § 87(2)(b) pushed him away, Lt. Mullen's fear that § 87(2)(b) had a weapon was elevated.

Additional units began to respond to the scene around the time that Lt. Mullen was attempting to frisk § 87(2)(b). Lt. Mullen recalled that PO Chambers and PO Guzman were at the scene of the incident. Lt. Mullen did not recall where they were standing. Lt. Mullen did not recall whether PO Chambers ever frisked or searched § 87(2)(b). Lt. Mullen never saw PO Chambers grasp § 87(2)(b)'s collar at the nape of his neck. Lt. Mullen successfully frisked § 87(2)(b) upon his third attempt. He patted his waist area and did not feel any other part of § 87(2)(b)'s body. Lt. Mullen did not recall whether he felt inside § 87(2)(b)'s pockets. Lt. Mullen did not feel any objects during the frisk.

After frisking § 87(2)(b), Lt. Mullen went inside § 87(2)(b) to see whether he could determine who had called 911. Lt. Mullen spoke with a security officer inside this location who was seated near the front lobby. Lt. Mullen was accompanied by more than one officer, but did not recall who specifically. Lt. Mullen did not recall which officers remained with § 87(2)(b). Lt. Mullen had not concluded his investigation regarding § 87(2)(b). While none of the officers outside of the location were physically restraining him in any way, § 87(2)(b) was not free to leave at the time in which Lt. Mullen entered § 87(2)(b).

The security guard informed Lt. Mullen that he had not called 911 and was unable to point him towards who had placed the call. Lt. Mullen did not speak to anyone else inside of § 87(2)(b). He exited the building and, having been unable to locate the firearm referenced in the radio run, decided to leave the location. Lt. Mullen and the officers who had also responded to the location began walking down the steps. As they left, § 87(2)(b) continued to scream obscenities towards them. Although Lt. Mullen was walking away from § 87(2)(b), he kept his body angled such that he could still see § 87(2)(b) on his side. PO Chambers was slightly behind Lt. Mullen.

As Lt. Mullen walked down the steps, § 87(2)(b) left the patio, walked down the steps and then reached out and pushed PO Chambers on his chest. Lt. Mullen did not recall whether § 87(2)(b) pushed him with one or both hands. Lt. Mullen never heard § 87(2)(b) request his name or shield number or request the names and shield numbers of any other officers. Lt. Mullen then made the determination to arrest § 87(2)(b) for § 87(2)(b) when he pushed PO Chambers. Lt. Mullen stated that he also had probable cause to arrest § 87(2)(b) for this charge prior to the moment in which he pushed PO Chambers because § 87(2)(b) had pushed his hands away during the frisk.

Lt. Mullen, PO Chambers and PO Guzman approached § 87(2)(b) and pulled him to the ground such that he was lying on his side. Lt. Mullen did not recall what part of § 87(2)(b)'s body he grasped. There was a railing near the patio. Lt. Mullen stated that § 87(2)(b) may have grasped a hold of this railing, but was not positive as to whether this had transpired. § 87(2)(b) immediately began to resist against the officers' efforts. Once on the ground, he kicked and flailed his whole body away from the officers and refused to place his hands behind his back. No physical force aside from that which was necessary to restraining § 87(2)(b) was ever used against him. Lt. Mullen did not recall being struck or injured by § 87(2)(b) during the struggle. Lt. Mullen was informed that PO Chambers' left hand was injured during this struggle. Lt. Mullen did not recall the time or manner in which PO

Chambers was injured. All three officers handcuffed § 87(2)(b). Lt. Mullen did not recall whether Sgt. Sotiriou ever came into physical contact with § 87(2)(b).

§ 87(2)(b) refused to stand up or walk once he was handcuffed. A few of the officers had to carry § 87(2)(b) to a nearby police vehicle. Lt. Mullen did not recall how they carried him. There was nothing which appeared to have rendered § 87(2)(b) physically incapable of walking, he was simply uncooperative. Lt. Mullen did not recall whether § 87(2)(b)'s feet were dragged along the ground. Lt. Mullen did not recall what unit transported § 87(2)(b) to the 44<sup>th</sup> Precinct.

At the conclusion of the incident, Lt. Mullen resumed patrol and did not return to the 44<sup>th</sup> Precinct. Lt. Mullen had no further interaction with § 87(2)(b) on the day of the incident. Lt. Mullen did not recall whether any officers experienced any difficulties with § 87(2)(b) at the precinct. Lt. Mullen was informed that § 87(2)(b) was later transported to a hospital and complained of injuries to his arms and feet. Lt. Mullen never observed any injuries on those areas of his body.

### **PO Curtis Chambers**

PO Curtis Chambers is § 87(2)(b) years old. He is a white male who is 6' tall, weighs 225 pounds and has brown hair and blue eyes. PO Chambers is assigned to the 44<sup>th</sup> Precinct and has been a member of the service for three years. PO Chambers was interviewed at the CCRB on July 17, 2008 (encl. 16a – 16c). On the day of the incident, PO Chambers was assigned to sector patrol with PO Guzman. He worked from 7:05 AM to 3:40 PM in uniform and was assigned to radio motor patrol vehicle 1673. PO Chamber's memobook (encl. 12a – 12b) notes that at 10:16 AM, he received a radio transmission concerning a male who was wearing jeans, white shoes and a red or blue shirt. The male was in front of § 87(2)(b) and reportedly possessed a firearm. At 10:25 AM, PO Chambers reported an arrest for § 87(2)(b). The arrestee injured PO Chambers' finger during the arrest and physical force was used to restrain him. At 10:30 AM, PO Chambers arrived at the 44<sup>th</sup> Precinct. § 87(2)(b)

At 3:00 PM, PO Chambers returned to the 44<sup>th</sup> Precinct.

### **Police Reports**

PO Chambers prepared the arrest report (encl. 13a – 13b) and complain report (encl. 14a – 14b) pertaining to § 87(2)(b)'s arrest. § 87(2)(a) 160.50

§ 87(2)(b). The arrest report noted that physical force was used to effect § 87(2)(b)'s arrest.

A criminal court report (encl. 15a – 15b) prepared by PO Chambers on May 30, 2007, notes that § 87(2)(b)

§ 87(2)(a) 160.50

### **CCRB Statement**

On May 30, 2007, at approximately 10:15 PM, PO Chambers and his partner, PO Guzman, were conducting routine patrol. They received a radio transmission concerning a reported firearm in the possession of a male wearing jeans, white shoes, and a red or blue shirt who was sitting in front of § 87(2)(b). PO Chambers and PO Guzman responded to the location and parked their police vehicle on § 87(2)(b). They were the last unit to respond. PO Chambers stated that least one or two other sectors, including Sgt. Sotiriou, his partner PO Patrick Fallon and Lt. Brian Mullen, were already at

the scene when they arrived. PO Chambers did not know which units responded to the scene or what other officers were present during the incident.

A male, subsequently identified through his arrest as § 87(2)(b) was sitting in front of § 87(2)(b) on a platform in front of a stair railing. § 87(2)(b) matched the physical description of the aforementioned radio transmission. There were two or four other individuals looking out of the entrance of § 87(2)(b). There may have initially been a male sitting to the right of § 87(2)(b). Throughout the incident, none of these individuals were instructed to stay back or leave the area.

PO Chambers stood behind § 87(2)(b) and PO Guzman stood on the sidewalk about two feet to the left of PO Chambers. Lt. Mullen stood in front of § 87(2)(b). PO Chambers never came into physical contact with § 87(2)(b) during this time. PO Chambers never grasped the back of § 87(2)(b)'s collar. PO Chambers never frisked or searched § 87(2)(b). PO Chambers did not see Lt. Mullen frisk or search § 87(2)(b) though this may have transpired before PO Chambers responded to the scene. At some point, Lt. Mullen was satisfied that § 87(2)(b) did not have a firearm. PO Chambers did not know how this determination was reached. Throughout the incident, § 87(2)(b) continued to shout obscenities at the officers and threatened to sue them.

After concluding the investigation regarding the firearm, all of the officers began to walk back to their respective vehicles. PO Chambers walked past § 87(2)(b). Suddenly, § 87(2)(b) extended his forearm against PO Chambers' right side in a pushing motion. PO Chambers turned around and pushed § 87(2)(b) on his chest with both of his hands extended in front of him to prevent § 87(2)(b) from coming closer. § 87(2)(b) fell onto the sidewalk, caught himself with his hands and sat on the ground. § 87(2)(b) attempted to sit up, but PO Chambers reached forward and grasped his arm. PO Chambers did not specify which arm. PO Guzman assisted PO Chambers in restraining § 87(2)(b). Prior to pushing PO Chambers, § 87(2)(b) never requested his name or shield number. PO Chambers did not hear § 87(2)(b) request any other officers' names or shield numbers.

PO Chambers assumed that the other officers present assisted them in restraining § 87(2)(b) but did not specifically recall them doing so. § 87(2)(b) swung his fists and kicked legs to prevent the officers from securing him in handcuffs. None of these blows connected with PO Chambers' body. § 87(2)(b) also wrapped his legs around the railing in front of § 87(2)(b). Somehow during the struggle, the pinky finger on PO Chambers' right hand was bent back. No other officers sustained any injuries during the struggle. PO Chambers did not know how he sustained this injury, which was why § 87(2)(b) was not charged with assaulting a police officer. Once § 87(2)(b) was handcuffed, he refused to stand up. PO Chambers recalled that § 87(2)(b) may have had a cane near him. § 87(2)(b) walked with a slight limp, but did not appear to have any difficulty with respect to mobility.

Because § 87(2)(b) would not stand up, PO Chambers and three other officers carried him to a marked police vehicle. Two officers held his legs and PO Chambers and another officer held his arm. § 87(2)(b)'s body was fully suspended in the air. PO Chambers did not specify which officers assisted him in carrying § 87(2)(b). None of the officers ever carried § 87(2)(b) by holding onto his hair. § 87(2)(b)'s feet were never dragged along the ground. PO Chambers did not recall which officers transported § 87(2)(b) to the 44<sup>th</sup> Precinct. PO Chambers believed he was present with § 87(2)(b) was brought into the precinct. PO Chambers did not recall how § 87(2)(b) was moved from the police vehicle to the holding cell.

PO Chambers began processing § 87(2)(b)'s arrest from 10:30 AM to 12:30 PM. PO Chambers was standing near the holding cells and could both see and hear § 87(2)(b) who continued to call the officers 'honkies' and threatened to sue them. PO Chambers ignored these comments. PO Chambers did not recall whether PO Guzman was near § 87(2)(b) or the holding cells. PO Chambers never heard PO Guzman make any negative comments regarding § 87(2)(b)'s race. § 87(2)(b) never informed PO Chambers that he needed or took medication, never complained of any injuries and never

appeared to lose consciousness. § 87(2)(b) never requested medical attention from PO Chambers and PO Chambers did not observe any injuries on his body or on his feet. § 87(2)(b)

At 3:00 PM, when PO Chambers returned to the 44<sup>th</sup> Precinct, he did not recall whether § 87(2)(b) was still in the 44<sup>th</sup> Precinct. PO Chambers was informed that § 87(2)(b) had been transported to § 87(2)(b). He did not recall why § 87(2)(b) went to the hospital, who secured medical attention for him, or which officer transported him to the hospital. PO Chambers was not at the 44<sup>th</sup> Precinct during the time in which § 87(2)(b) went to § 87(2)(b).

### **PO Vicenti Guzman**

PO Vicenti Guzman is § 87(2)(b) years old. He is a Hispanic male who is 6'5" tall, weighs 270 pounds, is baldheaded and has brown eyes. PO Guzman is assigned to the 44<sup>th</sup> Precinct and has been a member of the service for two years. PO Guzman was interviewed at the CCRB on June 12, 2008 (encl. 19a – 19c). On the day of the incident, PO Guzman was assigned to Sector Q with PO Chambers. He worked from 7:50 AM to 3:40 PM in radio motor patrol vehicle 1673. PO Guzman's memobook (encl. 17a – 17c) notes that at 10:16 AM he responded to a 10-10 (possible crime) regarding a firearm. The suspect was a black male wearing jeans, white sneakers and a blue or red shirt, who was sitting in front of § 87(2)(b). At 10:25, one male was arrested for § 87(2)(b). PO Guzman noted that the arresting officer's finger was injured by the male during arrest and that physical force was used to restrain him. At 10:30 AM, PO Guzman arrived at the 44<sup>th</sup> Precinct stationhouse. At 11:00 AM, he began arrest processing. At § 87(2)(b), the arrestee was transported to § 87(2)(b).

### **Police Reports**

PO Guzman prepared an AIDED Report worksheet for PO Chambers on May 30, 2007 (encl. 18a – 18b). He reported that at approximately 10:25 AM on this date in front of § 87(2)(b), he observed PO Chambers struggling to handcuff the defendant, who was resisting arrest. PO Guzman observed PO Chambers receive an injury to his left hand when the defendant resisted his arrest by kicking PO Chambers hand into a hand railing. PO Guzman noted that PO Chambers was transported to § 87(2)(b).

### **CCRB Statement**

On May 30, 2007, at approximately 10:30 AM, PO Guzman and PO Chambers responded to § 87(2)(b) in response to a 10-10, or possible crime, involving a firearm. The suspect was reportedly a black male, wearing jeans, white sneakers and a blue or red shirt and was sitting in front of the location. PO Guzman and PO Chambers were the last unit to arrive at the scene. PO Guzman could not estimate how many units were at the location. The location fell within the confines of PO Guzman's assigned sector, and he did not know which sectors or which officers also responded to this location.

PO Guzman saw a male, identified through the investigation as § 87(2)(b) sitting on a small ledge in front of § 87(2)(b). There was a railing running behind the length of this ledge. § 87(2)(b) matched the physical description of the reported subject. PO Guzman recalled that § 87(2)(b) had a cane, but did not recall where this cane was or what happened to it at the conclusion of the incident. There were no other civilians in front of the building, though there were individuals watching the incident from inside the building.

PO Guzman saw Lt. Mullen reach towards § 87(2)(b) in an attempt to frisk him. § 87(2)(b) slapped Lt. Mullen's hand away. Lt. Mullen straightened, told the officers that they were done, and instructed the officers in the area to leave. PO Guzman did not know whether Lt. Mullen successfully frisked or ever searched § 87(2)(b). PO Guzman did not know whether Lt. Mullen had determined that § 87(2)(b) was not the subject with regard to the reported firearm. PO Guzman did not continue his investigation into the reported firearm after the subsequent arrest of § 87(2)(b).

§ 87(2)(b) PO Guzman was about an arms length from § 87(2)(b) at this time. PO Guzman did not know where PO Chambers was standing. PO Guzman never saw PO Chambers grasp § 87(2)(b)'s collar by the back of his neck. PO Guzman did not recall § 87(2)(b) requesting the names or shield numbers of any of the officers at this time.

PO Guzman turned so that his back was towards § 87(2)(b) and the officers began to walk away. § 87(2)(b) began to scream obscenities at the officers. § 87(2)(b) called them "Pigs" and threatened to sue them. As PO Chambers was walking down the steps, § 87(2)(b) attacked him from behind. PO Guzman did not know how § 87(2)(b) physically attacked PO Chambers, though he assumed he used his arms. PO Guzman turned around and assisted PO Chambers in restraining § 87(2)(b). PO Guzman used his hands to grasp § 87(2)(b)'s arms, who was kept throwing himself to the ground and away from the officers. PO Guzman did not recall § 87(2)(b) wrapping his arms or legs around the railing in front of § 87(2)(b). PO Guzman and his partners never drew their batons. The physical struggle with § 87(2)(b) lasted about two minutes. To the best of his knowledge, only PO Guzman and PO Chambers participated in this struggle. PO Chambers later informed PO Guzman that his finger had been injured as a result of the struggle, though PO Guzman did not recall how PO Chambers sustained this injury.

Once § 87(2)(b) was handcuffed, he was placed in a police vehicle. PO Guzman did not recall which police vehicle he was placed in. PO Guzman did not know if it was his assigned police vehicle. PO Guzman did not remember whether it was difficult placing § 87(2)(b) into the vehicle. PO Guzman did not recall § 87(2)(b)'s hair style. There was never a time in which PO Guzman or any other officer lifted on § 87(2)(b)'s hair and belt to physically lift him into the air. There was nothing which appeared to impede § 87(2)(b)'s ability to walk.

PO Guzman returned to the 44<sup>th</sup> Precinct. PO Guzman did not recall who placed § 87(2)(b) in the holding cell. § 87(2)(b) was not dragged into the precinct or ever lifted up into the air. PO Chambers would have been the officer who removed § 87(2)(b)'s belt and shoe laces in the holding cell, and PO Guzman did not recall whether he assisted PO Chambers in doing so. PO Guzman never referred to § 87(2)(b) as a "nigger." § 87(2)(b) did not have any apparent injuries and did not complain of any injuries to PO Guzman. § 87(2)(b) never informed the officers that he used or needed medication. § 87(2)(b) never lost consciousness. PO Guzman did not recall whether an ambulance responded to the 44<sup>th</sup> Precinct. § 87(2)(b) refused to give his name or his prints to the officers and was processed as a "John Doe." PO Guzman ended his tour before § 87(2)(b) was transported to Central Booking.

#### **Sgt. Peter Sotiriou**

Sgt. Peter Sotiriou is § 87(2)(b) years old. He is a white male who is 6'2' tall, weighs 190 pounds and has brown hair and gray eyes. Sgt. Sotiriou is assigned to the 44<sup>th</sup> Precinct and has been a member of the service for nine years. Sgt. Sotiriou was interviewed at the CCRB on June 30, 2008 (encl. 21a – 21b). On the day of the incident, Sgt. Sotiriou was the assigned patrol supervisor and worked from 6:55 AM to 3:52 PM with PO Patrick Fallon in uniform and in a marked police vehicle. Sgt. Sotiriou's memobook (encl. 20a – 20b) notes that he responded to § 87(2)(b) at 10:20 AM regarding a possible crime concerning a firearm. At 10:30 AM, he noted that an arrested was effected by PO Guzman.

#### ***CCRB Statement***

On May 30, 2007, at approximately 10:20 AM, Sgt. Sotiriou and his partner received a radio communication regarding a male with a possible firearm in front of § 87(2)(b). Sgt. Sotiriou did not recall whether the radio communication also gave a physical description for the reported male individual. They responded to the location and parked on § 87(2)(b). There were already multiple units at the scene directly in front of that location. Sgt. Sotiriou could not estimate how many units were at the scene.

Sgt. Sotiriou saw that a male, identified through the investigation as § 87(2)(b) was in handcuffs and being led to a nearby marked police vehicle by a number of officers. Sgt. Sotiriou did not know who were escorting § 87(2)(b). Sgt. Sotiriou assumed that § 87(2)(b) either had or was presently resisting because it took two officers, who were grasping each of § 87(2)(b)'s arms, to walk him towards the vehicle. Sgt. Sotiriou did not see § 87(2)(b) overtly physically resist. It did not appear as though § 87(2)(b) was having difficulty walking. Sgt. Sotiriou did not recall whether § 87(2)(b) had a cane with him. Sgt. Sotiriou did not observe any injuries on his person. Sgt. Sotiriou never saw any officers physically lift § 87(2)(b) into the air by his hair and the rear of his waistband. Sgt. Sotiriou never saw § 87(2)(b) brought to the ground. Sgt. Sotiriou never saw § 87(2)(b) hit or poked with a baton or asp. Sgt. Sotiriou never came into physical contact with § 87(2)(b). Sgt. Sotiriou did not recall PO Fallon coming into physical contact with § 87(2)(b).

Sgt. Sotiriou did not play an active role at the scene because there was already a supervisor, Lt. Brian Mullen, who was present and it seemed as though the situation was under control. He saw other civilians watching the incident from in front of § 87(2)(b). These individuals never interfered with anything the officers were doing. Sgt. Sotiriou did not know what happened with regard to the original reported firearm and did not know whether § 87(2)(b) was arrested with regard to the original radio communication. Sgt. Sotiriou never used any profanity, nor did he hear any other officers direct any profanity towards § 87(2)(b).

Sgt. Sotiriou and PO Fallon were at the scene for about five minutes. They then resumed patrol. Sgt. Sotiriou did not see § 87(2)(b) later during his tour and was never later informed as to the details of § 87(2)(b)'s arrest.

#### **Officers Not Interviewed by the CCRB**

Statements and documentary evidence indicated that PO Patrick Fallon, PO Eric Acevedo, PO Maria Rodriguez and PO Chris Acker of the 44<sup>th</sup> Precinct responded to the scene. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

#### **Medical Records:**

##### **Ambulance Call Report**

According to an ambulance call report, medical personnel responded to the 44th Precinct on § 87(2)(b), § 87(2)(b) (encl. 22a – 22b). § 87(2)(a)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) was found upright, alert and oriented in the 44th Precinct. § 87(2)(b) complained of a sudden onset of chest pain while being arrested. Medical personnel found no evidence of loss of consciousness, though they noted that § 87(2)(b)'s blood pressure was slightly raised. Medical personnel found no evidence of trauma or deformity and noted under presumptive diagnosis that § 87(2)(b) likely had angina (coronary artery disease) due to his chronic, preexisting condition and recommended evaluation.

##### **§ 87(2)(b) Emergency Records**

According to § 87(2)(b) emergency records (encl. 23a – 23e), § 87(2)(b) was seen by medical personnel on § 87(2)(b). § 87(2)(b) complained of experiencing chest pain while being arrested. § 87(2)(b) denied shortness of breath, dizziness, diaphoresis and denied falling. § 87(2)(b) had a history of hypertension. Medical personnel observed no distress which affected the activities of daily living. § 87(2)(b) was oriented to time, place and person and was

not in acute respiratory distress. During radiology, two views of § 87(2)(b)'s chest were obtained which showed clear lungs without focal pneumonia or effusion (abnormal fluid around the heart). His heart appeared normal. § 87(2)(b) was discharged on § 87(2)(b).

### **Video Footage**

§ 87(2)(b) stated that the incident was captured on surveillance video footage from § 87(2)(b) § 87(2)(b)'s residence at § 87(2)(b) also called § 87(2)(b). The investigation contacted § 87(2)(b) § 87(2)(b), a total of eleven times between June 2, 2008, and August 4, 2008. The investigator was ultimately unable to speak with § 87(2)(b) regarding whether or not this footage was still on file § 87(2)(b). The investigator contacted § 87(2)(b) § 87(2)(b)'s criminal attorney, and ADA Kelsch, who was assigned to § 87(2)(b)'s criminal court case. Each stated that they no longer possessed a copy of the footage.

§ 87(2)(b) stated that the sole copy of this footage was in the possession of § 87(2)(b). The investigator called § 87(2)(b) a total of thirteen times between May 20, 2008, and August 4, 2008. On this date, the investigator learned that the copy of the video footage was presently in § 87(2)(b)'s possession. As his civil attorney had previously stipulated that the investigator not contact § 87(2)(b) directly, the investigator could not make any attempts to secure this footage through him directly. Additionally, the fact that the footage is allegedly in his possession indicates that he failed to provide it when allowed this opportunity at the time of his interview with the CCRB. § 87(2)(g)

### **Communications Records:**

A SPRINT (encl. 24a – 24b) generated on May 30, 2007, shows that an individual called 911 at 10:15 AM and reported that a black male wearing jeans, white sneakers and a blue or red shirt was sitting in front of § 87(2)(b) and carrying a firearm. At 10:18 AM, a patrol lieutenant from the 44<sup>th</sup> Precinct responded to the location. At 10:20 AM, Sector Q from the 44<sup>th</sup> Precinct responded to the location. At 10:25 AM, Sector Q reported one arrest. The patrol lieutenant verified that no firearm was recovered. At 10:27 AM, Sector A resumed patrol. At 11:19 AM, the patrol lieutenant resumed patrol. At 2:58 PM, Sector Q verified that an arrest had been effected.

A request for the communications CD pertaining to the incident was requested by the investigation. This request was returned from the Communications Division with a note stipulating that the archived recordings were erased in accordance with the established retention period (encl. 30r).

A SPRINT (encl. 25) generated on May 30, 2007, at 2:06 PM, shows that an officer from the 44<sup>th</sup> Precinct requested EMS for a male with chest pains at the stationhouse. EMS arrived at the scene at 2:11 PM. The male was transported to § 87(2)(b) center at § 87(2)(b).

### **Police Department Documents:**

#### **44<sup>th</sup> Precinct Roll Call**

The roll call for May 30, 2007 (encl. 26a – 26c), shows that Lt. Mullen was the assigned platoon commander. Sgt. Sotiriou was the assigned patrol supervisor, PO Acevedo and PO Rodriguez were assigned to Sector A, PO Chambers and PO Guzman were assigned to Sector Q and PO Fallon was the assigned sergeant's operator.

#### **44<sup>th</sup> Precinct Command Log**

The command log for May 30, 2007 (encl. 27), shows that a John Doe was arrested by PO Chambers in front of § 87(2)(b) for § 87(2)(a) 160.50

§ 87(2)(b) and brought into the precinct at 10:27 AM. There were no notations under his physical and mental condition. John Doe was transported to § 87(2)(b) at § 87(2)(b). He was transported to Central Booking at 8:45 PM.

#### **44<sup>th</sup> Precinct Prisoner Holding Pen Roster**

The prisoner holding pen roster (encl. 28) shows that PO Chambers guarded a John Doe from 10:25 AM to § 87(2)(b) at which time he was transported to § 87(2)(b).

#### **Notice of Claim**

§ 87(2)(b) filed a complain against the city of New York, the New York City Police Department and the 44<sup>th</sup> Precinct on § 87(2)(b) (encl. 5a – 5c). The nature of his claim is false arrest, false imprisonment, malicious prosecution, assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, prima facie tort, and violation of civil rights. As a result of his reported injuries, § 87(2)(b)'s notice of claim stated that he was damaged in the sum of five million dollars. These injuries were cited as the following: injuries to § 87(2)(b)'s left shoulder, right shoulder, left hand, right hand, left wrist, right wrist, left foot, right foot, and the exacerbation of preexisting conditions. The notice of claim also stated that § 87(2)(b) was denied medication and subsequently fainted three times and was vomiting blood while at Central Booking as a result. In addition, § 87(2)(b) also makes claim for punitive damages resulting from the incident in the amount of an additional five million dollars. A 50H hearing regarding § 87(2)(b)'s notice of claim was held on § 87(2)(b) (encl. 6a – 6ss).

#### **Disposition of Relevant Arrest**

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilian Criminal Conviction History**

§ 87(2)(b)) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Officer CCRB History**

Lt. Brian Mullen has been a member of the service for fourteen years, PO Curtis Chambers has been a member of the service for three years, and PO Vicenti Guzman has been a member of the service for two years. Lt. Mullen, PO Chambers and PO Guzman have had no CCRB allegations substantiated against them (encl. 3a – 3d).

### **Conclusions and Recommendations**

#### **Officer Identification**

Statements and documentary evidence confirmed the involvement of Lt. Mullen, PO Chambers, PO Guzman, Sgt. Sotiriou, PO Fallon, PO Acevedo and PO Rodriguez on the day of the incident. As Lt. Mullen was the supervising officer at the scene and admitted to stopping § 87(2)(b) § 87(2)(g) § 87(2)(b) was clear in stating that the officer who stopped him, whose name he provided as 'Lt. Chris Mullen,' searched him. § 87(2)(g)



§ 87(2)(b) was clear in stating that an officer whose name was ‘Chambers’ searched him, refused to provide his name and shield number upon request and did not obtain medical treatment for him. These allegations have therefore been pleaded against PO Chambers. § 87(2)(b) was also clear in stating that an officer whose name was ‘Guzman’ did not provide his name and shield number to him, used physical force against him, made remarks to him based upon race and did not obtain medical treatment for him. § 87(2)(g)

§ 87(2)(b) made a number of allegations regarding the physical force which was allegedly used against him at § 87(2)(b). While § 87(2)(b) identified some of these officers, he also made additional force allegations against officers whom he could not describe in an detail. § 87(2)(g)

### Undisputed Facts

It is undisputed that § 87(2)(b) was sitting in front of § 87(2)(b). It is undisputed that § 87(2)(b) refused to provide his name to the officers in the 44<sup>th</sup> Precinct stationhouse. It is undisputed that physical force was used to restrain § 87(2)(b).

### Disputed Facts

§ 87(2)(g)

### Assessment of Evidence

It is undisputed that § 87(2)(b) was sitting in front of § 87(2)(b). According to § 87(2)(b) Lt. Mullen and PO Chambers were the first officers to approach him. He stated that PO Chambers stood behind § 87(2)(b) and held the back collar of his shirt while Lt. Mullen stood in front of § 87(2)(b) such that he was not free to leave. Lt. Mullen admitted to approaching and standing in front of § 87(2)(b) but stated that PO Chambers had not yet arrived at the scene and indicated that it was his partner, PO Chris Acker, who stood behind § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b) identified PO Chambers by observing the name on his shield and continued to refer to him by name during his interview with the CCRB (encl. 8a – 8i). § 87(2)(b) made a number of statements throughout his interview regarding the fact that he specifically wanted to file a complaint against PO Chambers (encl. 8a – 8i). § 87(2)(g)

According to Lt. Mullen, he approached § 87(2)(b) because he had received a radio communication on the day of the incident in which a black male in jeans was sitting in front of § 87(2)(b) and reportedly armed with a firearm. He received this communication three minutes before responding to the location. When he arrived, he observed that § 87(2)(b) matched the physical description outlined in the radio communication and was also sitting in front of the building.

§ 87(2)(b) stated that he was wearing brown flip-flops, grey jean shorts and a grey tee-shirt. The SPRINT (encl. 24a – 24b) stated that the individual reported to be in possession of a firearm was wearing

blue jeans, a white tee-shirt and a blue or red shirt. However, § 87(2)(b) stated during his interview with the CCRB (encl. 8a – 8i) that his criminal attorney had informed him that this was the description of the individual the officers were looking for. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Lt. Mullen, PO Chambers and PO Guzman were consistent in stating that § 87(2)(b) matched the physical description provided in the radio run. A line of duty injury report (encl. 10) which was prepared by Lt. Mullen additionally noted that § 87(2)(b) had been stopped and questioned because he matched the physical description of a male with a reported firearm. In light of these statements, the investigation concluded that § 87(2)(b) was likely stopped because he matched the description outlined in the aforementioned SPRINT (encl. 24a – 24b).

§ 87(2)(g) According to § 87(2)(b) PO Chambers felt inside his back pockets while Lt. Mullen felt inside of his front pockets. He stated that they did not conduct a frisk prior to the search, though he acknowledged that Lt. Mullen had explained that they were looking for a firearm.

According to Lt. Mullen, he only frisked § 87(2)(b) and did not recall feeling inside his pockets. Lt. Mullen justified the frisk by citing the radio run and the fact that he could not tell whether § 87(2)(b) had a weapon on him through visual inspection alone. Lt. Mullen explained that he attempted to frisk § 87(2)(b) on two occasions. Each time, § 87(2)(b) swatted his hands away, which elevated his fear that § 87(2)(b) was armed. According to Lt. Mullen, his frisk was limited to § 87(2)(b)'s waistband.

§ 87(2)(g) § 87(2)(b)'s acquaintance, § 87(2)(b) additionally stated that an officer approached § 87(2)(b) reached forward and patted him on the shorts (encl. 9). § 87(2)(b) stated that § 87(2)(b) swatted this officer's hand away from him in response. § 87(2)(b) made no mention of any officer searching § 87(2)(b) at any point during the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) alleged that, when the officers began to walk away, he asked for Lt. Mullen, PO Chambers and PO Guzman's name and shield number. None of the officers interviewed by the CCRB recalled § 87(2)(b) asking for anyone's name or shield number. According to § 87(2)(b)'s statement to the CCRB (encl. 8a – 8i), he had already visually observed both PO Chambers and PO Guzman's names prior to making this request. It is therefore unclear why he would request this information of them again at the then apparent conclusion of his interaction with them.

§ 87(2)(b) did not mention § 87(2)(b) requesting any officers' names or shield numbers and further stated that § 87(2)(b) had already been taken to the ground by the time he entered § 87(2)(b) (encl. 9). According to the officers, § 87(2)(b) walked down the steps, pushed PO Chambers and was then taken to the ground, restrained and arrested. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) did not admit to pushing PO Chambers. The fact that he did so was documented in a criminal court complaint report (encl. 15a – 15b) prepared by PO Chambers and further consistent with Lt. Mullen, PO Chambers and PO Guzman's account of the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

According to § 87(2)(b) he was pushed by PO Chambers, who then grabbed his left arm. PO Guzman poked him in the stomach with a baton and instructed him to step back. PO Chambers then drew one of his arms behind his back and at least three officers wrestled him to the ground. § 87(2)(b) could not describe how they wrestled him to the ground, where the officers grasped him on his body or whether he was pulled or pushed in a particular direction.

§ 87(2)(g)  
It is also undisputed that § 87(2)(b) resisted his arrest. A line of duty injury report prepared by Lt. Mullen (encl. 10) and an AIDED report worksheet prepared by PO Guzman (encl. 18a – 18b) further demonstrate that PO Chambers' left hand was injured as a result of the struggle with § 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that PO Guzman and an additional officer § 87(2)(b) could not describe picked him up and carried him to a marked police vehicle by holding onto his belt and hair and then PO Chamber and PO Guzman threw him inside this vehicle. While Lt. Mullen and PO Chambers confirmed that it was necessary to carry § 87(2)(b) to the police vehicle, they did not corroborate § 87(2)(b) § 87(2)(b)'s statement regarding the manner in which he was brought to the police vehicle. PO Chambers stated that the officers' carried § 87(2)(b) by holding onto his arms and legs, which is more plausible than carrying § 87(2)(b) by his hair and belt. § 87(2)(b) alleged that his knees and feet were lacerated as a result of the way in which he was carried by the officers. § 87(2)(g)

§ 87(2)(b) stated that he was transported to the 44<sup>th</sup> Precinct by PO Guzman. According to § 87(2)(b) § 87(2)(b) he got out of the police vehicle and informed PO Guzman that he could not walk without the assistance of his cane. § 87(2)(b) alleged that PO Guzman then dragged him into the precinct, lacerating the bottom of his feet in the process, and dropped him on the floor in the holding cell area. PO Guzman then told him to get up and § 87(2)(b) again told him he could not. PO Guzman then put his hands on § 87(2)(b)'s waist, lifted him into the air and walked § 87(2)(b) into the holding cell while holding his waist. He let go of § 87(2)(b)'s waist and he fell to the floor in a seated position. PO Guzman then kicked him once on his left side above his hip.

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(b)'s medical records from § 87(2)(b) show that he made no complaints regarding injuries to his feet and the treatment he obtained at this facility was solely limited to that concerning a complaint of chest pain (encl. 23a – 23e). An ambulance call report (encl. 22a – 22b) additional notes that medical personal found no evidence of any trauma or deformity on § 87(2)(b)'s person. § 87(2)(g)

§ 87(2)(g)  
According to PO Guzman, § 87(2)(b) was not dragged into the precinct or ever

lifted up into the air and there was nothing which appeared to impede his ability to walk § 87(2)(g)

§ 87(2)(b) also alleged that PO Guzman said, “Get up, Nigger” after placing him in the holding cell. PO Guzman stated that he never made any remarks to § 87(2)(b) based on race, which PO Chambers corroborated. § 87(2)(a) Gen.Mun. §50-H(3)

§ 87(2)(g)

§ 87(2)(b) finally alleged that he informed PO Guzman and PO Chambers that he needed his medication, was disabled and felt as though he was going to vomit. He stated that PO Guzman and PO Chambers did not obtain medical treatment for him at this time. § 87(2)(b) stated that he continued to feel ill and began to experience chest pain, though he did not report this to the officers, while he was in the holding cell. He stated that PO Chambers checked on his every fifteen minutes. At one point, § 87(2)(b) lost consciousness. When he awoke, he informed PO Guzman and PO Chambers that he had chest pain and requested an ambulance. EMS responded to the 44<sup>th</sup> Precinct, and § 87(2)(b) was then transported to § 87(2)(b)

§ 87(2)(g)

According to PO Chambers, he went to § 87(2)(b) for his own injury and did not return to the 44<sup>th</sup> Precinct until § 87(2)(b). This statement is consistent with his memobook (encl. 12a – 12b), as well as a line of duty injury report prepared by Lt. Mullen (encl. 10). The command log (encl. 27), prisoner holding pen roster (encl. 28) and PO Guzman’s memobook (encl. 17a – 17c) each documented the fact that § 87(2)(b) was taken to § 87(2)(b) at § 87(2)(b) § 87(2)(g)

However, the prisoner holding pen roster also notes that PO Chambers was § 87(2)(b)’s guarding officer for the duration of the time in which he was at the holding cell. No additional notations pointed towards who was guarding § 87(2)(b) in PO Chambers’ absence. § 87(2)(g)

According to § 87(2)(b)’s statement, he complained of chest pain and was taken to § 87(2)(b) via an ambulance upon request. This is supported by a SPRINT record (encl. 25) and by an ambulance call report (encl. 22a – 22b) § 87(2)(g)

§ 87(2)(g)

Neither PO Chambers nor PO Guzman recalled § 87(2)(b) informing them that he needed or took medication. They both stated that § 87(2)(b) never complained of any injuries and never appeared to lose consciousness. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Allegations Not Pleaded**

§ 87(2)(g)

§ 87(2)(g)

### **Allegation A. At § 87(2)(b) Lt. Brian Mullen stopped § 87(2)(b)**

An individual is seized within the meaning of the Fourth Amendment when his freedom of movement is constrained in such a way that a reasonable person would not feel free to leave. According to *Terry v. Ohio*, a police officer may execute a forcible stop of a particular individual when “he reasonably suspects that such person is committing, has committed or is about to commit” a crime (encl. 1a – 1d). In order to meet the standard of constitutionality, reasonable suspicion must be predicated upon those specific and articulable facts which led to the stop.

Lt. Mullen stated that he stopped § 87(2)(b) because he matched the physical description outlined in a radio communication, in which a black male wearing jeans, white sneakers and a blue or red shirt was reportedly sitting in front of § 87(2)(b) and carrying a firearm. According to *Florida v. J.L.*, anonymous information, such as that supplied by a call placed to 911, “must corroborate both the identify of the suspect and the criminality of the suspect’s conduct” (encl. 1a – 1d). § 87(2)(g)

However, the second standard in *Florida v. J.L.* is relaxed when, as per *People v. Herold*, the source of information, in this case the 911 caller, “was readily identifiable, thereby enhancing the reliability of the information” (encl. 1a – 1d). § 87(2)(g)

These factors have included “the close proximity of the suspect to the site of the crime, the short passage of time between the crime and the suspect’s presence near the location of the crime...[and]...the fact that the defendant was the only person in a group of individuals who fit certain physical characteristics of the suspect” (encl. 1a – 1d). Lt. Mullen stated that he responded to § 87(2)(b) within three minutes after receiving the aforementioned radio communication. When he arrived, § 87(2)(b) was the only individual who matched the physical description and was also sitting in front of the building, as reported.

§ 87(2)(g)

**Allegation B. At** § 87(2)(b) **Lt. Brian Mullen searched** § 87(2)(b)

**Allegation C. At** § 87(2)(b) **PO Curtis Chambers searched** § 87(2)(b)

§ 87(2)(g)

**Allegation D. At** § 87(2)(b) **PO Curtis Chambers refused to provide his name and shield number to** § 87(2)(b)

**Allegation E. At** § 87(2)(b) **Lt. Brian Mullen refused to provide his name and shield number to** § 87(2)(b)

**Allegation F. At** § 87(2)(b) **PO Vicenti Guzman refused to provide his name and shield number to** § 87(2)(b)

§ 87(2)(g)

**Allegation G. At** § 87(2)(b) **officers used physical force against** § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) s arrest report (encl. 13a – 13c) correspondingly noted that physical force was used to restrain, contain and remove § 87(2)(b) from the scene of his arrest. § 87(2)(g)

§ 87(2)(b) A line of duty injury report prepared by Lt. Mullen (encl. 10) and an AIDED report worksheet prepared by PO Guzman (encl. 18a – 18b) further demonstrate that PO Chambers’ left hand was injured as a result of the subsequent struggle with § 87(2)(b)

According to Patrol Guide Procedure, a police officer may use “that amount of force necessary to overcome resistance” (encl. 2) in order to effect an arrest. § 87(2)(g)

§ 87(2)(g)

**Allegation H. At the 44<sup>th</sup> Precinct, PO Guzman used physical force against** § 87(2)(b)

**Allegation I. At the 44<sup>th</sup> Precinct, PO Guzman made remarks to** § 87(2)(b) **based upon race**

§ 87(2)(g)

**Allegation J. At the 44<sup>th</sup> Precinct, PO Vicenti Guzman did not obtain medical treatment for § 87(2)(b)**

**Allegation K. At the 44<sup>th</sup> Precinct, PO Curtis Chambers did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: